

Spinnaker Coating-Special Notice Letter Tremont City Barrel Fill

Blue Category

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Label: Permanent (Capstone approach) Expires: Never

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Hersh, Stuart

Mon 11/18/2019 4:45 PM

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To:

- Morris, James

Cc:

- Polster, Jenny;
- Kolak, Shari

James,

From my review of the record, it is my recommendation that Spinnaker does NOT qualify as a BFPP for the East Troy Contaminated Aquifer Site. In short, while the record supports the assertion that a Phase I was timely conducted for the property within the appropriate time-frame that Spinnaker acquired the property from Kimberly- Clark, the record also indicates that this "Phase I" may not have included "all appropriate inquiry." Specifically, the Phase I identified one area of soil and groundwater contamination; this area was addressed through a voluntary cleanup action with the State. However, the record does not support an "all appropriate inquiry" with regard to another parcel that had historically been used as a dry cleaning establishment. Kimberly-Clark knew or should have known that this was a parcel appropriate for inquiry, since the dry cleaning activities were occurring while KC was operating on the adjacent parcel, and KC apparently purchased the parcel from the cleaning establishment to use as a parking lot. The RI identified this dry cleaning parcel as one of the continuing sources of contamination to the East Troy Contaminated Aquifer Site, and the ROD selected a source removal remedy at this property.

If you would like to discuss this further, please contact me.

Stuart P Hersh

Associate Regional Counsel

Region 5

US EPA

312-886-6235

From: Hersh, Stuart

Sent: Thursday, October 24, 2019 8:08 AM

To: Morris, James <morris.james@epa.gov>

Cc: Davison, Jenny <davison.jenny@epa.gov>

Subject: RE: Spinnaker Coating-Special Notice Letter Tremont City Barrel Fill

Jim,

We are still in process.

Stu

From: Morris, James <Morris.James@epa.gov>

Sent: Wednesday, October 23, 2019 2:35 PM

To: Hersh, Stuart <hersh.stuart@epa.gov>

Cc: Davison, Jenny <davison.jenny@epa.gov>

Subject: FW: Spinnaker Coating-Special Notice Letter Tremont City Barrel Fill

Hi Stu,

Are you still the ORC attorney for the East Troy Aquifer Site? If you are, did EPA ever make a determination as to whether Spinnaker Coating, LLC qualified as a BFPP at the site? (One of the attachments to this email is a 10/6/2008 from Spinnaker's counsel to you, requesting that EPA make such a determination.)

Thanks!

Jim

From: Hoffman, Timothy <tim.hoffman@dinsmore.com>

Sent: Wednesday, October 23, 2019 12:52 PM

To: Davison, Jenny <davison.jenny@epa.gov>; Morris, James <Morris.James@epa.gov>

Cc: ssalinas@dykema.com

Subject: Spinnaker Coating-Special Notice Letter Tremont City Barrel Fill

Our firm represents Spinnaker Coating, LLC ("New Spinnaker") located at 518 East Water Street, Troy, Ohio 45373. New Spinnaker received the USEPA's Special Notice letter for the Tremont City Barrel Fill Site dated October 11, 2019 addressed to Ronald Klenk, "Spinnaker Coating" at that address. In the list of PRP recipients in Enclosure 2 that accompanied the Special Notice Letter, the addressee is intended to be **Spinnaker Industries, Inc. on behalf of Spinnaker Coating, Inc. and Brown Bridge Mills ("Old Spinnaker")**. New Spinnaker is not any of those entities and is not a PRP at the Tremont Barrel Fill, for the reasons explained below and in the attachments. Most importantly, from a review of the "Background" material at the USEPA website, this site accepted liquid waste from 1976 to 1979. As you will see below and in the attachments, New Spinnaker did not exist until late March 2002, so it could not have disposed of waste at this site.

As further background, it may be helpful for you to review the attached communications with USEPA in connection with the East Troy Superfund Site. New Spinnaker has been in communication with Shari Kolak at USEPA in connection with that site. It's important to note that New Spinnaker acquired certain assets of Old Spinnaker, including the property, in a bankruptcy court approved transaction in March 2002. The attached documents (including the Bankruptcy Order) which were submitted to Ms. Kolak in 2008, make clear that since New Spinnaker, as a new entity, did not have any obligations of any kind at

the time it purchased the assets out of the bankruptcy, it assumed no existing obligations of any kind to the OEPA or the USEPA at that time.

Inasmuch as New Spinnaker is not one of the entities identified in the Special Notice letter, we respectfully request that you confirm that it is NOT a PRP in this matter and ask that it be removed from future mailings.

Please let me know if you have any questions or would like to discuss.

Thank you

Tim.

Timothy D. Hoffman

Partner

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